

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ANTHONY H. GRIFFIN,

Defendant.

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CASE NO. 8:07CR186

**MEMORANDUM
AND ORDER**

This matter is before the Court on the Report and Recommendation (Filing No. 36) issued by Magistrate Judge F.A. Gossett recommending denial of the Defendant's motion to dismiss (Filing No. 26). No objections have been filed to the Report and Recommendation as allowed by 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3(a).

The Defendant seeks an order dismissing the Indictment. Judge Gossett determined: 16 U.S.C. § 5845(c) is not void for vagueness; the elements of the offense could be proved without test-firing the flare gun in question; the Defendant has not met his burden in proving pre-indictment delay; and, because there was no unnecessary delay in presenting this case to the grand jury or in progressing the case for trial, the case need not be dismissed under Federal Rule of Criminal Procedure 48(b)..

Notwithstanding the absence of objections, pursuant to 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3, the Court has conducted a de novo review of the record. The Court has read the parties' briefs (Filing Nos. 27,30) and the transcript (Filing No. 39). The Court has also viewed the evidence. (Filing No. 32) Because Judge Gossett fully, carefully, and correctly applied the law to the facts, the Court adopts the Report and Recommendation in its entirety.

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation (Filing No. 36) is adopted in its entirety; and
2. The Defendant's motion to dismiss (Filing No. 26) is denied.

DATED this 4th day of December, 2007.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge